

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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LAC COURTE OREILLES BAND OF LAKE  
SUPERIOR CHIPPEWA INDIANS; LAC DU  
FLAMBEAU BAND OF LAKE SUPERIOR  
INDIANS; SOKAOGAN CHIPPEWA INDIAN  
COMMUNITY, MOLE LAKE BAND OF  
WISCONSIN; BAD RIVER BAND OF LAKE  
SUPERIOR CHIPPEWA INDIANS; ST. CROIX  
CHIPPEWA INDIANS OF WISCONSIN; and  
RED CLIFF BAND OF LAKE SUPERIOR  
CHIPPEWA INDIANS,

Plaintiffs,

v.

STATE OF WISCONSIN; WISCONSIN NATURAL  
RESOURCES BOARD; CATHY STEPP;  
KURT THEIDE; and TIM LAWHERN,

Defendants.

ORDER

74-cv-313-bbc

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This case is before the court on the motion for costs filed by defendants State of Wisconsin, Wisconsin Natural Resources Board, Cathy Stepp, Kurt Theide and Tim Lawhern. Plaintiffs oppose the motion but did not file their response within the time allowed by statute for doing so.

Defendants filed a timely motion for costs under Fed. R. Civ. P. 54(d) on December 20, 2013. An electronically generated briefing schedule gave plaintiffs until December 30, 2013 to file any objections to the costs. Plaintiffs did not file their objections until 15 days

later, on January 14, 2014, but they did not seek an extension of time for filing under Fed. R. Civ. P. 6(b)(2), which allows the court to enlarge the time for filing objections to a bill of costs, “where the failure to act was the result of excusable neglect.” Defendants ask the court to strike plaintiffs’ objections because of its untimeliness.

Defendants’ request to strike will be denied. Plaintiffs have explained in their response to the motion to strike, dkt. #387, that extenuating circumstances warrant giving them an extension of time. They cite the major winter snow storm in both Minnesota (where plaintiffs’ lead attorney is located) and Wisconsin, the holidays, the fact that all of the tribes’ governmental offices were closed for the entire week following defendants’ filing of their bill of costs, the major illnesses of two of plaintiff’s attorneys, lead counsel’s inability to use her office at the William Mitchell College of Law from December 21 through January 3 (a period in which she had planned to take some time off) and counsel’s misreading of the due date for the filing of the objections on the court’s electronic docketing system.

Plaintiffs have shown extenuating circumstances for their late filing. Accordingly, I will accept their response to defendants’ bill of costs. Defendants may have until March 6, 2014 to file a reply, if they wish.

#### ORDER

IT IS ORDERED that plaintiffs’ late filed objections to defendants’ bill of costs and their response to defendants’ bill of costs are accepted for filing in light of the extenuating circumstances shown by plaintiffs. Defendants may have until March 6, 2014 to file a reply

to the response, if they wish.

Entered this 24th day of February, 2014.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge